

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION  
2:08cv29**

<b>PAUL FAGAN; and EVELYN FAGAN,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>Vs.</b>	)	<b>ORDER</b>
	)	
<b>UNITRIN AUTO AND HOME</b>	)	
<b>INSURANCE COMPANY d/b/a</b>	)	
<b>KEMPER AUTO AND HOME, an</b>	)	
<b>insurance company organized under</b>	)	
<b>the laws of the State of Florida and</b>	)	
<b>doing business in the State of North</b>	)	
<b>Carolina,</b>	)	
	)	
<b>Defendant.</b>	)	
	)	

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**THIS MATTER** is before the court on defendant's Motion to Dismiss. In response, plaintiff has filed a Stipulation of Dismissal as to Count One of the Complaint, which the court construes to be plaintiff's assent to the Motion to Dismiss. It appearing that Count One is time barred, the court enters the following Order with permission of the district court.

**ORDER**

**IT IS, THEREFORE, ORDERED** that defendant's Motion to Dismiss is **GRANTED**, and Count One is **DISMISSED** with prejudice as time barred, and the **STAY** previously entered as to the IAC and CIAC is **LIFTED**.

The parties are respectfully reminded that they must now conduct a IAC within 14 days and file such CIAC with the court within 5 days thereof.

Signed: November 12, 2008

Dennis L. Howell

Dennis L. Howell  
United States Magistrate Judge

